

SANTA CRUZ COUNTY

Audit Report

SEXUALLY VIOLENT PREDATORS PROGRAM

Chapters 762 and 763, Statutes of 1995,
and Chapter 4, Statutes of 1996

July 1, 1999, through June 30, 2002



STEVE WESTLY
California State Controller

October 2004



STEVE WESTLY
California State Controller

October 29, 2004

The Honorable Gary A. Knutson
Auditor-Controller
Santa Cruz County
P.O. Box 1804
Santa Cruz, CA 95061

Dear Mr. Knutson:

The State Controller's Office audited the claims filed by Santa Cruz County for costs of the legislatively mandated Sexually Violent Predators Program (Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) for the period of July 1, 1999, through June 30, 2002.

The county claimed \$421,164 (\$421,211 in costs less a \$47 penalty for filing late) for the mandated program. Our audit disclosed that \$269,784 is allowable and \$151,380 is unallowable. The unallowable costs occurred primarily because the county claimed unsupported Public Defender costs. The county was paid \$245,241. Allowable costs claimed in excess of the amount paid total \$24,543.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's website at www.csm.ca.gov (Guidebook link), and obtain IRC forms by telephone at (916) 323-3562 or by e-mail at csminfo@csm.ca.gov.

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

Original Signed By:

VINCENT P. BROWN
Chief Operating Officer

VPB:JVB/jj

cc: (See page 2)

cc: Suzanne Young
Audit Manager
Auditor-Controller's Office
Santa Cruz County
James Tilton, Program Budget Manager
Corrections and General Government
Department of Finance

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Audit Report

Summary

The State Controller's Office (SCO) audited the claims filed by Santa Cruz County for costs of the legislatively mandated Sexually Violent Predators Program (Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) for the period of July 1, 1999, through June 30, 2002. The last day of fieldwork was December 12, 2003.

The county claimed \$421,164 (\$421,211 in costs less a \$47 penalty for filing late) for the mandated program. Our audit disclosed that \$269,784 is allowable and \$151,380 is unallowable. The unallowable costs occurred primarily because the county claimed unsupported Public Defender costs. The county was paid \$245,241. Allowable costs claimed in excess of the amount paid total \$24,543.

Background

Welfare and Institutions Code Sections 6250 and 6600 through 6608 (added by Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) established new civil commitment procedures for the continued detention and treatment of sexually violent offenders following their completion of a prison term for certain sex-related offenses. Before detention and treatment are imposed, the county attorney is required to file a petition for civil commitment. A trial is then conducted to determine if the inmate is a sexually violent predator beyond a reasonable doubt. If the inmate accused of being a sexually violent predator is indigent, the statutes require counties to provide the indigent with the assistance of counsel, and experts necessary to prepare the defense.

On June 25, 1998, the Commission on State Mandates (COSM) determined that Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996, imposed a reimbursable state mandate under *Government Code* Section 17561.

Parameters and Guidelines establishes state mandates and defines criteria for reimbursement. COSM adopted the *Parameters and Guidelines* on September 24, 1998. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement to assist local agencies in claiming reimbursable costs.

Objective, Scope, and Methodology

Our audit objective was to determine whether costs claimed are increased costs incurred as a result of the Sexually Violent Predators Program (Chapters 762 and 763, Statutes of 1995, and Chapter 4, Statutes of 1996) for the period of July 1, 1999, through June 30, 2002.

We performed the following procedures:

- Reviewed the costs claimed to determine if they were increased costs resulting from the mandated program;
- Traced the costs claimed to the supporting documentation to determine whether the costs were properly supported;
- Confirmed that the costs claimed were not funded by another source; and
- Reviewed the costs claimed to determine that the costs were not unreasonable and/or excessive.

We conducted our audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority provided for under *Government Code* Section 17558.5. We did not audit the county's financial statements. Our scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the amounts claimed for reimbursement were supported.

We limited our review of the county's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Santa Cruz County claimed \$421,164 (\$421,211 in costs less a \$47 penalty for filing late) for costs of the Sexually Violent Predators Program. Our audit disclosed that \$269,784 is allowable and \$151,380 is unallowable.

For fiscal year (FY) 1999-2000, the county was paid \$113,236 by the State. Our audit disclosed that \$94,823 is allowable. The amount paid in excess of allowable costs claimed, totaling \$18,413, should be returned to the State.

For FY 2000-01, the county was paid \$94,430 by the State. Our audit disclosed that \$29,174 is allowable. The amount paid in excess of allowable costs claimed, totaling \$65,256, should be returned to the State.

For FY 2001-02, the county was paid \$37,575 by the State. Our audit disclosed that \$145,787 is allowable. Allowable costs claimed in excess of the amount paid, totaling \$108,212, will be paid by the State based on available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on May 21, 2004. Gary Knutson, county Auditor-Controller, responded by letter dated July 7, 2004, agreeing with the audit results except for Finding 3. The county's response is included as an attachment to this final report.

Restricted Use

This report is solely for the information and use of Santa Cruz County, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

Schedule 1— Summary of Program Costs July 1, 1999, through June 30, 2002

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>	<u>Reference ¹</u>
<u>July 1, 1999, through June 30, 2000</u>				
District Attorney:				
Salaries	\$ 28,179	\$ 26,969	\$ (1,210)	Finding 1
Benefits	7,575	7,255	(320)	Finding 1
Services and supplies	401	2,080	1,679	Finding 2
Training and travel	2,494	45	(2,449)	Finding 2
Indirect costs	<u>10,398</u>	<u>9,952</u>	<u>(446)</u>	Finding 1
Subtotals	<u>49,047</u>	<u>46,301</u>	<u>(2,746)</u>	
Public Defender:				
Salaries	28,210	—	(28,210)	Finding 3
Benefits	—	—	—	
Services and supplies	3,392	2,992	(400)	Finding 2
Training and travel	—	—	—	
Indirect costs	<u>—</u>	<u>—</u>	<u>—</u>	
Subtotals	<u>31,602</u>	<u>2,992</u>	<u>(28,610)</u>	
Sheriff:				
Salaries	—	—	—	
Benefits	—	—	—	
Services and supplies	32,287	45,530	13,243	Finding 4
Training and travel	—	—	—	
Indirect costs	<u>—</u>	<u>—</u>	<u>—</u>	
Subtotals	<u>32,287</u>	<u>45,530</u>	<u>13,243</u>	
Total costs	112,936	94,823	(18,113)	
Mathematical errors	300	—	(300)	
Less late penalty	<u>—</u>	<u>—</u>	<u>—</u>	
Total reimbursable costs	<u>\$ 113,236</u>	94,823	<u>\$ (18,413)</u>	
Less amount paid by the State		<u>(113,236)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (18,413)</u>		
<u>July 1, 2000, through June 30, 2001</u>				
District Attorney:				
Salaries	\$ 11,768	\$ 9,763	\$ (2,005)	Finding 1
Benefits	3,013	2,500	(513)	Finding 1
Services and supplies	4,092	3,923	(169)	Finding 2
Training and travel	169	169	—	Finding 2
Indirect costs	<u>4,684</u>	<u>3,886</u>	<u>(798)</u>	Finding 1
Subtotals	<u>23,726</u>	<u>20,241</u>	<u>(3,485)</u>	

Schedule 1 (continued)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>	<u>Reference ¹</u>
<u>July 1, 2000, through June 30, 2001 (continued)</u>				
Public Defender:				
Salaries	61,010	—	(61,010)	Finding 3
Benefits	—	—	—	
Services and supplies	6,213	4,828	(1,385)	Finding 2
Training and travel	—	—	—	
Indirect costs	—	—	—	
Subtotals	<u>67,223</u>	<u>4,828</u>	<u>(62,395)</u>	
Sheriff:				
Salaries	—	—	—	
Benefits	—	—	—	
Services and supplies	3,481	4,105	624	Finding 4
Training and travel	—	—	—	
Indirect costs	—	—	—	
Subtotals	<u>3,481</u>	<u>4,105</u>	<u>624</u>	
Total costs	94,430	29,174	(65,256)	
Mathematical errors	—	—	—	
Less late penalty	—	—	—	
Total reimbursable costs	<u>\$ 94,430</u>	29,174	<u>\$ (65,256)</u>	
Less amount paid by the State		(94,430)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (65,256)</u>		
<u>July 1, 2001, through June 30, 2002</u>				
District Attorney:				
Salaries	\$ 36,774	\$ 39,071	\$ 2,297	Finding 1
Benefits	6,840	7,095	255	Finding 1
Services and supplies	5,418	1,775	(3,643)	Finding 2
Training and travel	—	1,149	1,149	Finding 2
Indirect costs	<u>13,717</u>	<u>14,573</u>	<u>856</u>	Finding 1
Subtotals	<u>62,749</u>	<u>63,663</u>	<u>914</u>	
Public Defender:				
Salaries	\$ 84,060	\$ —	\$ (84,060)	Finding 3
Benefits	—	—	—	
Services and supplies	21,483	20,719	(764)	Finding 2
Training and travel	—	—	—	
Indirect costs	—	—	—	
Subtotals	<u>105,543</u>	<u>20,719</u>	<u>(84,824)</u>	
Sheriff:				
Salaries	—	—	—	
Benefits	—	—	—	
Services and supplies	45,253	61,452	16,199	Finding 4
Training and travel	—	—	—	
Indirect costs	—	—	—	
Subtotals	<u>45,253</u>	<u>61,452</u>	<u>16,199</u>	

Schedule 1 (continued)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>	<u>Reference</u> ¹
<u>July 1, 2001, through June 30, 2002 (continued)</u>				
Total costs	213,545	145,834	(67,711)	
Mathematical errors	—	—	—	
Less late penalty	<u>(47)</u>	<u>(47)</u>	<u>—</u>	
Total reimbursable costs	<u>\$ 213,498</u>	145,787	<u>\$ (67,711)</u>	
Less amount paid by the State		<u>(37,575)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 108,212</u>		
<u>Summary: July 1, 1999, through June 30, 2002</u>				
District Attorney:				
Salaries	\$ 76,721	\$ 75,803	\$ (918)	Finding 1
Benefits	17,428	16,850	(578)	Finding 1
Services and supplies	9,911	7,778	(2,133)	Finding 2
Training and travel	2,663	1,363	(1,300)	Finding 2
Indirect costs	<u>28,799</u>	<u>28,411</u>	<u>(388)</u>	Finding 1
Subtotals	<u>135,522</u>	<u>130,205</u>	<u>(5,317)</u>	
Public Defender:				
Salaries	173,280	—	(173,280)	Finding 3
Benefits	—	—	—	
Services and supplies	31,088	28,539	(2,549)	Finding 2
Training and travel	—	—	—	
Indirect costs	<u>—</u>	<u>—</u>	<u>—</u>	
Subtotals	<u>204,368</u>	<u>28,539</u>	<u>(175,829)</u>	
Sheriff:				
Salaries	—	—	—	
Benefits	—	—	—	
Services and supplies	81,021	111,087	30,066	Finding 4
Training and travel	—	—	—	
Indirect costs	<u>—</u>	<u>—</u>	<u>—</u>	
Subtotals	<u>81,021</u>	<u>111,087</u>	<u>30,066</u>	
Total costs	420,911	269,831	(151,080)	
Mathematical errors	300	—	(300)	
Less late penalty	<u>(47)</u>	<u>(47)</u>	<u>—</u>	
Total reimbursable costs	<u>\$ 421,164</u>	269,784	<u>\$(151,380)</u>	
Less amount paid by the State		<u>(245,241)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 24,543</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— District Attorney salaries overclaimed

The county overclaimed salary costs incurred by the District Attorney's Office as follows:

- For FY 1999-2000 through FY 2001-02, the county claimed salary costs for District Attorney's Office personnel using base hourly rates that were computed incorrectly.
- For FY 1999-2000, the county did not provide documentation to support some of the labor hours claimed.
- For FY 2000-01, the county claimed salary costs for a senior accountant who did not perform any activities related to this mandate. Also, the county claimed some hours twice.

Parameters and Guidelines for the Sexually Violent Predators Program specifies that only actual increased costs incurred in the performance of the mandated activities and supported by appropriate documentation are reimbursable.

Claimed District Attorney salary costs have been adjusted as shown below. Since fringe benefits and indirect costs were claimed as a percentage of salary costs claimed, they have also been adjusted.

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
District Attorney:				
Salaries	\$ (1,210)	\$ (2,005)	\$ 2,297	\$ (918)
Benefits	(320)	(513)	255	(578)
Indirect costs	<u>(446)</u>	<u>(798)</u>	<u>856</u>	<u>(388)</u>
Audit adjustments	<u>\$ (1,976)</u>	<u>\$ (3,316)</u>	<u>\$ 3,408</u>	<u>\$ (1,884)</u>

Recommendation

The county should ensure that all costs claimed are eligible increased costs incurred as a result of the mandate, and are supported by accounting records.

County's Response

The county agreed with the finding.

SCO's Comment

The finding and recommendation remain unchanged.

**FINDING 2—
Services and supplies,
and training and
travel costs
overclaimed**

The county overstated claimed costs totaling \$5,982 as follows:

District Attorney

For FY 1999-2000, the county claimed \$401 in services and supplies, and \$2,494 in training and travel. The county supported allowable costs totaling \$2,080 in services and supplies, and \$45 in training and travel. Consequently, services and supplies were understated by \$1,679, and training and travel were overstated by \$2,449.

For FY 2000-01, the county did not support any of the \$169 claimed for services and supplies.

For FY 2001-02, the county claimed \$5,418 in costs for services and supplies, and training and travel under services and supplies. Of that amount, the county supported allowable costs totaling \$1,775 in services and supplies, and \$1,149 in training and travel. Consequently, services and supplies were overstated by \$3,643, and training and travel were understated by \$1,149.

Public Defender

The county did not support \$400 in FY 1999-2000, \$1,554 in FY 2000-01, and \$3,258 in FY 2001-02. The unsupported costs consist of estimates for postage, telephone calls, and photography expenses.

Parameters and Guidelines specifies that only actual increased costs incurred in the performance of the mandated activities and supported by appropriate documentation are reimbursable.

Claimed District Attorney and Public Defender costs have been adjusted as follows:

	Fiscal Year			
	1999-2000	2000-01	2001-02	Total
District Attorney:				
Services and supplies	\$ 1,679	\$ (169)	\$ (3,643)	\$ (2,133)
Training and travel	(2,449)	—	1,149	(1,300)
Subtotals	(770)	(169)	(2,494)	(3,433)
Public Defender:				
Services and supplies	(400)	(1,385)	(764)	(2,549)
Audit adjustments	<u>\$ (1,170)</u>	<u>\$ (1,554)</u>	<u>\$ (3,258)</u>	<u>\$ (5,982)</u>

Recommendation

The county should ensure that all costs claimed are eligible increased costs incurred as a result of the mandate, and are supported by accounting records.

County's Response

The county agreed with the finding.

SCO's Comment

The finding and recommendation remain unchanged.

**FINDING 3—
Unsupported Public
Defender costs**

The county claimed costs for the services of a contract public defender that were not supported. The county paid the contract public defender a negotiated fixed amount per year for all public defender services referred by the county. These services included sexually violent predator cases as well as many other types of cases. However, the county did not support the basis on which it allocated a portion of its public defender costs to the mandate. Also, a portion of the amounts claimed appeared to be based on estimated hourly rates for investigators and legal secretaries that were not supported by the contract.

Parameters and Guidelines specifies that only actual increased costs incurred in the performance of the mandated activities and supported by appropriate documentation are reimbursable.

Claimed public defender costs have been adjusted as follows:

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Public Defender:				
Salaries	<u>\$ (28,210)</u>	<u>\$ (61,010)</u>	<u>\$ (84,060)</u>	<u>\$ (173,280)</u>

Recommendation

The county should ensure that all costs claimed are eligible increased costs incurred as a result of the mandate, and are supported by accounting records.

County's Response

The county disagreed with the finding. It stated that the hourly labor rate of \$95 per hour used in computing claimed costs for public defender attorneys was justified and reasonable. The county also stated that there is no indication that the SCO has any dispute with the number of labor hours reported for public defender services.

SCO's Comment

The finding and recommendation remain unchanged.

As stated in the finding, the county paid its contract public defender a fixed amount per year, regardless of the type or number of cases referred (other than "special circumstance" cases). The county provided no evidence that sexually violent predator cases were separately billed as "special circumstance" cases. Therefore, the county incurred no additional or incremental costs when the contract public defender worked on a sexually violent predator case.

The finding also stated that the county did not support the basis on which it allocated a portion of its public defender costs to the mandate. The county only provided our office with estimated hours spent on mandated activities by fiscal year.

Should the county negotiate a new contract with a private law firm for public defender services based on labor hours devoted to county cases (including sexually violent predator cases), labor hours billed to the county should be supported by contemporaneous time distribution records, and hourly labor rates for each classification of contract worker should be clearly stipulated in the contract.

**FINDING 4—
Sheriff's Department
jail rates understated**

For FY 1999-2000 through FY 2001-02, the county understated the Sheriff's Department's daily jail housing rates when computing claimed costs because it used the approved California Department of Corrections rates rather than actual rates incurred.

Parameters and Guidelines specifies that local agencies are entitled to reimbursement for housing costs for each potential sexually violent predator at a secured facility while the individual awaits trial.

The auditor applied the understated jail rates to the actual number of days the inmates were housed to arrive at the understated housing costs. As a result, claimed costs were adjusted as follows:

	Fiscal Year			
	1999-2000	2000-01	2001-02	Total
Sheriff:				
Allowable jail rate	\$ 70.48	\$ 69.60	\$ 80.12	
Less claimed jail rate	(49.98)	(59.00)	(59.00)	
Understated jail rate	20.50	10.60	21.12	
Number of days	x 646	x 59	x 767	
Understated housing costs	<u>\$ 13,243</u>	<u>\$ 625</u>	<u>\$ 16,199</u>	<u>\$ 30,067</u>

Recommendation

The county should ensure that actual jail housing rates are used in computing claimed costs.

County's Response

The county agreed with the finding.

SCO's Comment

The finding and recommendation remain unchanged.

**Attachment—
County's Response to
Draft Audit Report**



COUNTY OF SANTA CRUZ

AUDITOR-CONTROLLER'S OFFICE

701 OCEAN STREET, SUITE 100, SANTA CRUZ, CA 95060-4073
(831) 454-2500 FAX: (831) 454-2660

GARY A. KNUTSON, AUDITOR-CONTROLLER

Chief Deputy Auditor-Controllers
Pam Silbaugh, Accounting
Suzanne Young, Audit and Systems
Kathleen Hammons, Budget and Tax

July 7, 2004

Jim L. Spano, Chief, Compliance Audits Bureau
State Controller's Office, Division of Audits
P. O. Box 942850
Sacramento, CA 94250-5874

Subject: **Response to Audit Report on Sexually Violent Predators Program**

Dear Mr. Spano:

We are hereby submitting our response to the audit report of the claims filed by Santa Cruz County for costs of the legislatively mandated Sexually Violent Predators Program for the period of July 1, 1999, through June 30, 2002.

Correction

Please note that your report, on page 3, omitted the name of Eric Seib, Administrative Services Officer in the District Attorney's Office, who was in attendance at the exit conference.

Response to Findings

Finding 1 – District Attorney salaries overclaimed

Finding: The county overclaimed salary costs incurred by the District Attorney's Office – net adjustment \$(1,884).

Response: The County concurs with this finding and recommendation.

Finding 2 -- Services and supplies and training and travel costs overclaimed

Finding: The county overclaimed costs totaling \$5,982.

Response: The County concurs with this finding and recommendation.

Finding 3 – Unsupported Public Defender Costs

Finding: The county claimed costs for the services of a contract public defender that were not supported. Claimed Public Defender costs were adjusted in the amount of \$(173,280).

Response: The County of Santa Cruz disagrees with and objects to this finding. The key issue here is the hourly rate claimed by the County. Unlike finding no.1 which states, "For FY 1999-2000, the county did not provide documentation to support some of the labor hours claimed," there is no indication that the Controller has any dispute with the number of labor hours reported for Public Defender services.

The Controller seems to be saying that the County's contract with the Public Defender does not include a specific hourly rate for working on Sexually Violent Predator (SVP) cases. The County's contract with the Public Defender *does* contain a \$95 per hour rate for "special circumstances" cases, which was intended to include the SVP cases. The County position was further supported by a letter from the Public Defender which for some reason has not been given any weight by the State auditor. The SVP cases clearly are those that require a senior or experienced attorney (public defender or district attorney) and that is consistent with what special circumstance cases require.

The rate for those cases, at \$95 an hour, is a very reasonable rate for senior attorneys. In most mandate areas, the State has reimbursed counties for far more than \$95 an hour. It is not uncommon for high cost of living areas to have attorney costs that far exceed \$100 an hour, and when you add benefits and departmental overhead costs, those hourly rates exceed \$150 an hour. The departments in the State of California that desire to contract with the Attorney General for senior attorney services are required to pay an hourly fee in excess of \$100 an hour. In summary, \$95 per hour is a very reasonable rate (even a low rate) for the type of work provided.

To avoid confusion in the future, the County has added specific language in its Public Defender contract to memorialize the rate as follows:

"County shall pay Contractor for work on SB 90 claims at the rate of \$95 per hour for attorney services, \$75 per hour for investigative services and \$45 per hour for support services."

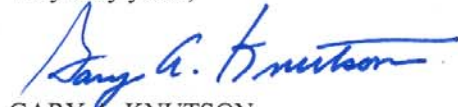
This does not modify the rate from what it has been, or in any way change the parties' intent. A full copy of the contract can be provided.

Finding 4 – Sheriff's Department jail rates understated

Finding: The county understated the Sheriff's Department's daily jail housing rates when computing claimed costs because it used the approved California Department of Corrections rates rather than the actual rates incurred -- net adjustment of \$30,067.

Response: The County concurs with this finding and recommendation.

Very truly yours,



GARY A. KNUTSON
AUDITOR-CONTROLLER

cc: CAO, DA
Sheriff
Public Defender

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, California 94250-5874**

<http://www.sco.ca.gov>